

Notice of Allowability

Application No.

10/045,975

Applicant(s)

DAMARATI, JOHN JAIRO

Examiner

Darwin P. Erez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the communication filed on July 6, 2006.
2. ☒ The allowed claim(s) is/are 1,8,9,11,13-18 and 21.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Oleg Kaplun on 9/7/06.

The application has been amended as follows:

IN THE CLAIMS:

Replaced Claim 11 with the following:

(claim 11) A device for suturing an opening in an internal organ of a patient, comprising:

a first catheter for insertion to an opening to be sealed through a working channel of an endoscope;

a plurality of anchoring members received within the first catheter, each of the anchoring members including a shaft extending from a tissue penetrating distal tip to a suture receiving proximal end and a gripping arm moveable between an insertion configuration in which the gripping arm is folded against the shaft and a gripping configuration in which the gripping arm extends away from the shaft;

a length of suture extending between the suture receiving proximal ends of the anchoring members; and

a driving member extending through the first catheter to a proximal end thereof, wherein advancing the driving member distally into the first catheter advances the anchoring members distally through the first catheter to drive a distal-most one of the anchoring members out of the first catheter to anchor in a tissue;

wherein the driving member includes a knot holding section, a suture cutting surface and a lumen extending therethrough and wherein the suture extends through the lumen to a proximal end of the device.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application. See comments on Draftsperson Patent Drawing Review (PTO-948), which is enclosed. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

3. The following is an examiner's statement of reasons for allowance:

As to claim 1, the prior art fails to teach or render obvious a suturing device comprising, inter alia, a first catheter having a first hinge and second hinge to allow the distal portion of the first catheter to radially expand upon contact with a tissue, and a

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plurality of anchoring members received within the first catheter, wherein a first one of the anchoring members include a contact pressure mechanism which releases a gripping arm of the first anchoring member when the distal tip of the first anchoring member penetrates the tissue.

As to claims 9 and 15, the examiner agrees with the applicant's arguments on the Remarks filed on 7/6/06.

As to claim 11, the prior art fails to teach or render obvious a suturing device comprising, inter alia, a first catheter, a plurality of anchoring members within the first catheter, a length of suture extending between the anchoring members; and a driving member having a knot holding section, a suture cutting surface, and a lumen extending therethrough and wherein the suture extends through the lumen to a proximal end of the device.

As to claim 18, the prior art fails to teach or render obvious a suturing device comprising, inter alia, a first catheter; a plurality of anchoring members within the first catheter, wherein an extending means of at least a first one of the anchoring members includes a biasing member biasing a gripping arm toward a tripping configuration, wherein the gripping member is restrained in an insertion configuration; a driving member extending through the first catheter for deploying said anchoring members; and a length of suture extending between a suturing receiving proximal ends of the anchoring members.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darwin P. Erezzo whose telephone number is (571) 272-4695. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
2/1/06.